

REMARKS/ARGUMENTS

Claims 2-27 are in the case. Claims 18-25 are withdrawn based on the imposed restriction. Nonetheless, these non-elected claims are retained and amended to depend from the elected subject matter of Claim 2 so that the Office may consider rejoinder upon determining that the elected product claims are allowable. With respect to the species election, Applicants reiterate their request to expand to the non-elected species upon finding that the elected specie is allowable.

Claim 2 is amended in accordance with the disclosure for the variable R<sup>6</sup> found on page 19, line 19 to page 22, line 15 of the specification. The remaining claims have been amended consistent with the amendments to Claim 2, from which these claims depend.

Claim 27 is a re-presentation of original Claim 6.

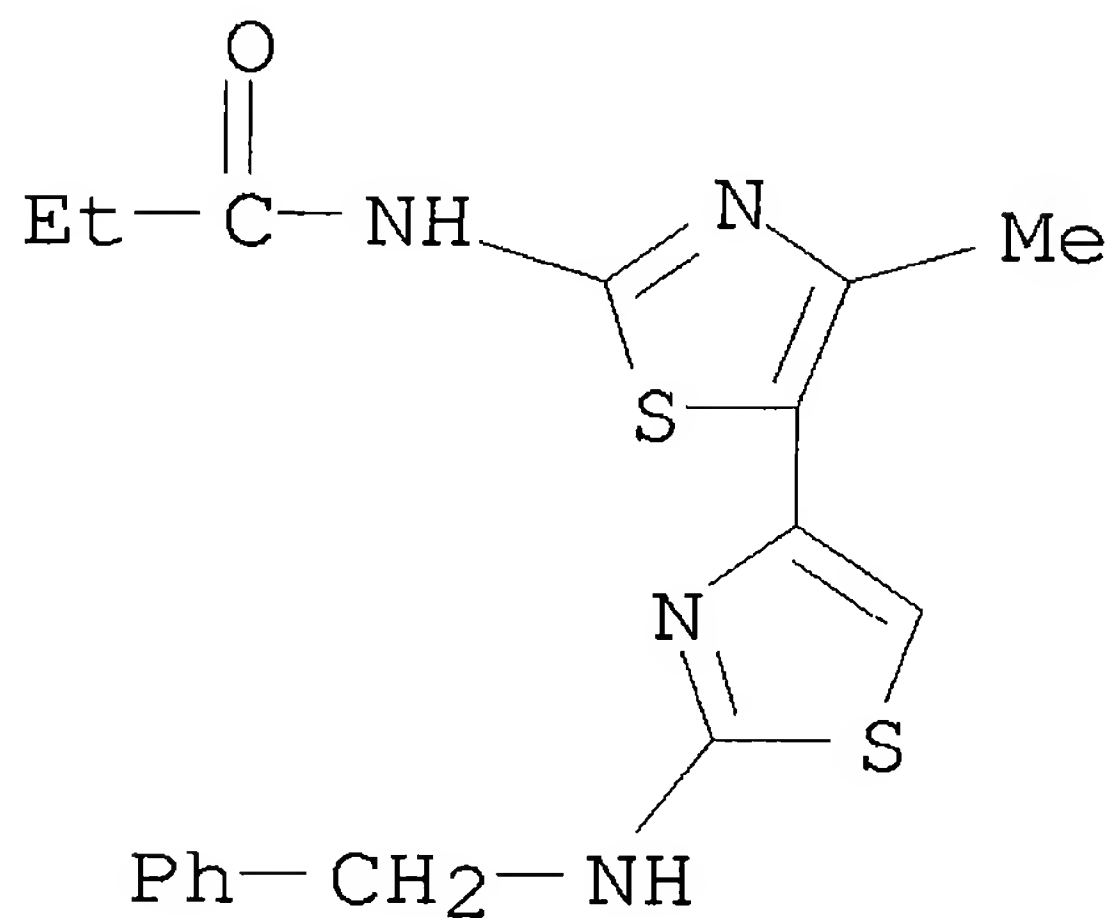
No new matter is added.

The rejection under 112, first paragraph alleging the presentation of new matter is not applicable as each of the substituents, presented in list form to clearly delineate one from another are described on pages 19-22 as indicated above. Withdrawal of the rejection is requested.

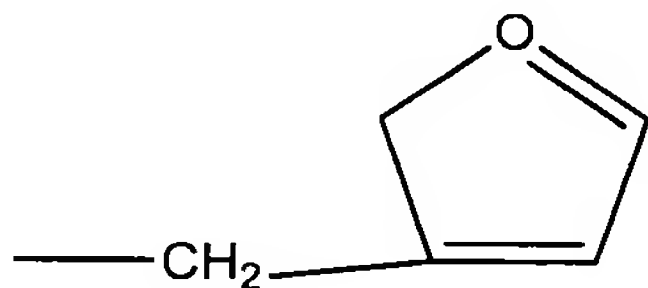
The rejection under 112, second paragraph is also not applicable based on the listing of substituents, noting that there were no “!” characters in the previous listing (perhaps it was a misinterpretation of the electronic filing). Further, Claims 7, 9, and 12 have been amended consonant with the listing provided in Claim 2. Claim 19 is amended to be independent. Similar changes are made to non-elected claims for the purposes of rejoinder consideration. Withdrawal of the rejection is requested.

The rejection under 35 USC 102(b) is not applicable to the claims presented in this paper.

CA Registry 412919-68-7 is:



This compound differs from the claimed compound in that  $R^6$  is not permitted to be a substituted alkyl but in the same position in this database compound  $R^6$  would have to be



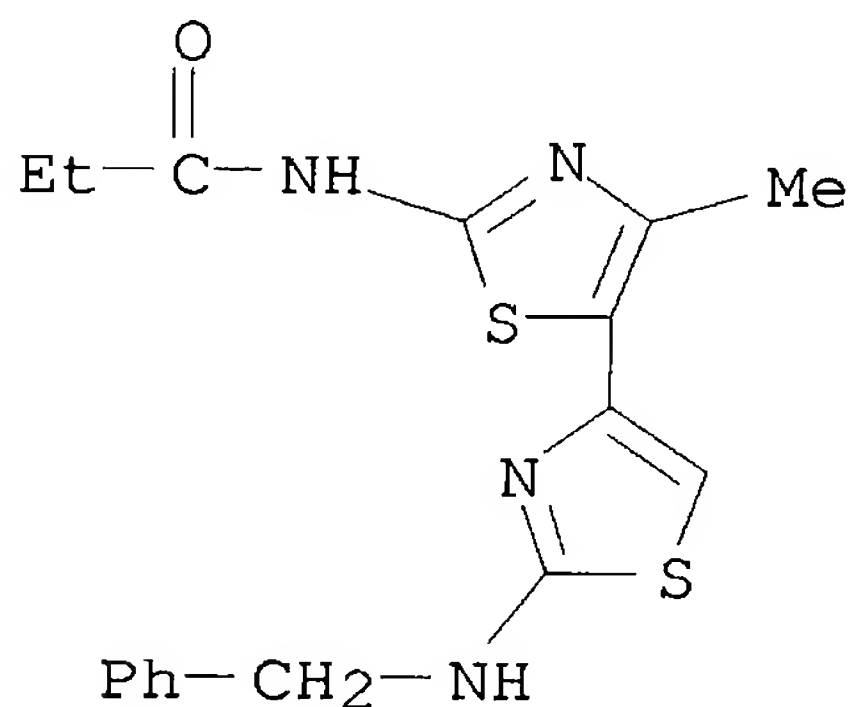
Inaba's compounds 5 and 6 are:

実施例 番号	構造式 / 組成式
5	 <chem>C20H22ClN5O2S2</chem>
6	 <chem>C17H18N4O2S2</chem>

Regarding compound 5, the compound of formula 1 does not permit that  $R^5$  and  $R^6$ , which may form an 5-8 membered saturated or aromatic ring containing optionally one or more heteroatoms to be substituted, e.g., with phenyl as in Inaba's compound 5.

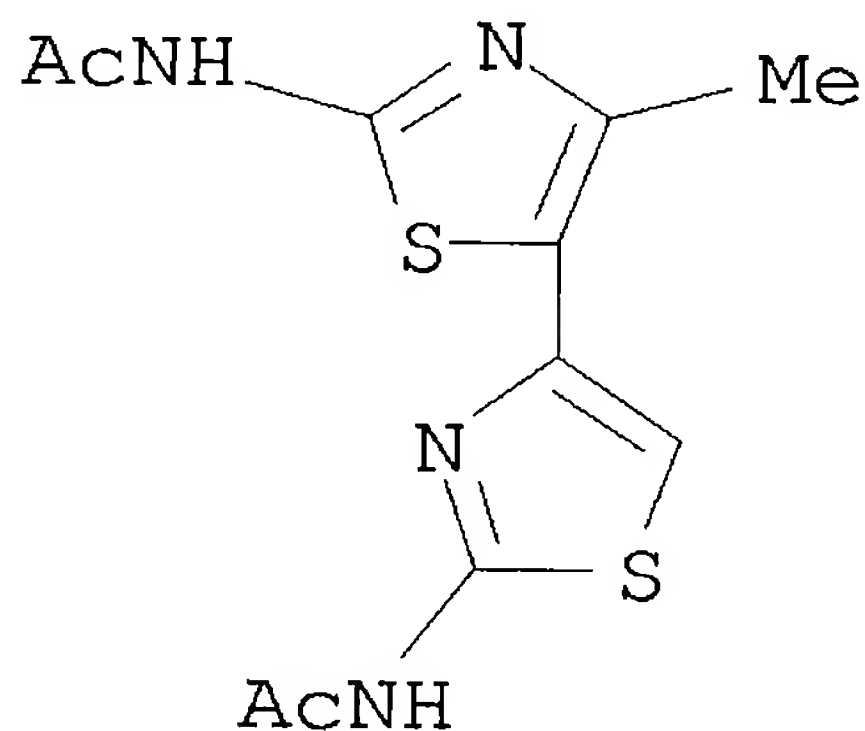
Regarding compound 6,  $R^6$  in the claims is not a carbonyl alkyl phenyl.

CA Registry 412919-72-3 is:

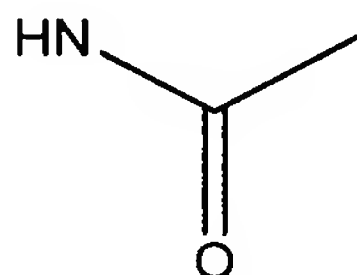


The corresponding position of  $R^6$  in this compound is a  $C_1$ alkyl-phenyl (or alkyl aryl). However, no such substituent is listed in the definition of  $R^6$  in claim 2.

CA registry 32519-8611 is:



The corresponding position of  $R^1$  (which is  $NR^5R^6$  in claim 2) is -NHAc:



However, no such group is listed as a substituent for R<sup>6</sup> nor R<sup>5</sup>.

Withdrawal of the rejections applied under 35 USC 102 is requested.

The Examiner has also rejected the claims under 35 USC 103(a) as obvious in view of Inaba (cited as one of the CAS entries), Wu or Takaya.

Applicants cannot agree that Inaba, Wu or Takaya teach compounds as claimed. Applicants understand that it would have been obvious to try to make compounds having similar structures but a key component of any obviousness analysis is reasonable expectation of success. Applicants acknowledge the Examiner's conclusion of obviousness of "the expectation of obtaining additional beneficial products which would be useful as, for example, a pain killer." However, there is no evidence of record supporting this conclusion. Applicants purpose in explaining Takaya's superior cardiogenic activity and Wu's hedgehog pathway modulators actually demonstrates that differences in structure lead to different activities and unlike the claimed compounds which were designed to inhibit the activity of phosphoinositide-3 kinases, the cited references deal with and recognize that structural alterations cannot yield a reasonable expectation of what would result, particularly when different activities are sought.

Further as explained previously, Inaba's compounds differ structurally from those claimed in that Inaba's compounds bear an amide group of position R<sup>1</sup>. Finally, Wu's compounds 1 and 2 are structurally different from the others.

Inaba, Wu and Takaya provide only general disclosure as to very different compounds with different activities and as such there is simply nothing in the art that suggests to the problem underlying the present invention, inhibitors of Phosphoinositide 3-kinases. Bayer Schering Pharma AG v. Barr Laboratories, Inc. 2009 U.S. App. LEXIS 17372, 91 U.S.P.Q.2D (BNA) 1569 (Fed. Cir. 2009) (internal citations omitted)

In view of the above and the amendments submitted in this paper, it is requested that the 103 rejection be withdrawn.

A Notice of Allowance for all pending claims is also requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
Norman F. Oblon



---

Daniel J. Pereira  
Registration No. 45,518

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 03/06)